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Attorneys for Defendant:
CARLOS E. KEPKE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CARLOS E. KEPKE,

Defendant.

Case No. 3:21-CR-00155-JD

**DECLARATION OF GRANT P. FONDO
IN SUPPORT OF CARLOS KEPKE'S
OPPOSITION TO GOVERNMENT'S
SUPPLEMENTAL MOTION TO ADMIT
EVIDENCE OF UNDERCOVER
CONTACTS**

Date: November 21, 2022
Time: 1:30 p.m.
Courtroom: 11, 19th Floor
Judge: Hon. James Donato

DECLARATION OF GRANT P. FONDO

I, Grant P. Fondo, declare as follows:

1. I am a partner with the law firm Goodwin Procter LLP and a member of good standing of the bar of this Court. I represent Defendant Carlos E. Kepke (“Mr. Kepke”) in the above-captioned matter. I submit this Declaration in support of Mr. Kepke’s Opposition to Government’s Supplemental Motion to Admit Evidence of Undercover Contacts. Unless stated otherwise, this declaration is based on my personal knowledge, and if called as a witness I could and would testify as follows:

2. Attached hereto as **Exhibit A** is a true and correct copy of an email from Michael G. Pitman to Grant P. Fondo, et al., dated October 28, 2022.

3. The parties met and conferred on November 3, 2022. During that meeting, the defense again raised concerns about the undercover evidence and the government acknowledged that its set of excerpts was overly broad and that it would be narrowing the set down.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on November 14, 2022 in Los Altos, California.

Dated: November 14, 2022

GOODWIN PROCTER LLP

By: /s/ Grant P. Fondo

GRANT P. FONDO (SBN 181530)

GFondo@goodwinlaw.com

GOODWIN PROCTER LLP

Attorneys for Defendant:

CARLOS E. KEPKE

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States District Court for the Northern District of California by using the CM/ECF system on **November 14, 2022**. I further certify that all participants in the case are registered CM/ ECF users and that service will be accomplished by the CM/ECF system.

I certify under penalty of perjury that the foregoing is true and correct. Executed on **November 14, 2022** in Los Altos, California.

/s/ Grant P. Fondo

GRANT P. FONDO

EXHIBIT A

From: [Pitman, Michael \(USACAN\)](#)
To: [Kim, Nicole](#); [Smith, Corey \(TAX\)](#); [Bourget, Boris \(TAX\)](#)
Cc: [Strassberg, Richard M](#); [Fondo, Grant P](#); [Callaway, David R](#); [Ewald, Sylvia](#)
Subject: U.S. v. Kepke 3:21 cr 155 JD
Date: Friday, October 28, 2022 12:01:02 PM

EXTERNAL

Hello Goodwin:

The Court's Order dated 10/20/22 instructed the US to identify the specific undercover evidence it expects to introduce at trial. That evidence is as follows:

December 4, 2017 (IRS-2018-0000341):

12/4/17, 20:6 – 29:6

12/4/17, 45:18 – 48:17

12/4/7, 53:19 – 56:14

12/4/7, 59:4 – 62:7

January 22, 2018 (IRS-KEPKE-2018-0000265):

1/22/18, 8:17 – 13:21

1/22/18, 18:3 – 23:16

1/22/18, 38:1 – 42:10

February 7, 2018 (IRS-Kepke-2018-0000696):

2/7/18, 6:18 – 7:12

2/7/18, 19:21 – 21:18

2/7/18, 24:20 – 27:8

2/7/18, 30:8 – 40:4

2/7/18, 41:17 – 43:17

2/7/18, 47:12 – 49:21

2/7/18, 56:12 – 58:4

2/7/18, 104:21 – 105:17

2/7/18, 107:1 – 108:7

2/7/18, 116:19 – 117:19

2/7/18, 156:13 – 156:22

2/7/18, 165:19 – 166:19

February 22, 2018 (IRS-KEPKE-2018-0001057):

2/22/18, 21:10 – 23:21

2/22/18, 31:10 – 33:13

2/22/18, 37:1 – 39:6

2/22/18, 47:19 – 49:13

August 17, 2018 (IRS-2018-0000523):

8/17/18, 2:9 – 8:5

8/17/18, 15:3 – 16:2

8/17/18, 17:2 – 17:22

8/17/18, 27:8 – 28:15

I expect you may continue to assert the objections you have already raised with respect to this evidence, but, given the Court's ruling that certain aspects of this evidence will be permitted, I would appreciate it if you would review these proposed designations and let me know if you are willing to stipulate to any/all of it, if you have any objections in addition to those you have already raised to any/all of it (including whether you believe any of the evidence goes beyond what is contemplated by the Order dated 10/20/22), or if you would like to propose any counter-designations.

Thanks,

Mike